

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1193

James Munson,

Appellant,

v.

Larry Norris, Director, Arkansas

Department of Correction; Ray Hobbs,

Assistant Director, Arkansas

Department of Correction; P. Smith,

R.S.V.P. Counselor, Tucker Unit, ADC;

Clark, Dr., Tucker Unit, ADC; David

White, Warden, Tucker Unit, ADC; R.

Brownlee, Chairman, Post Prison

Transfer Board; John Felts, Board

Member, Post Prison Transfer Board;

Max Mobley, Director, R.S.V.P.

Program, Tucker Unit, ADC; Roy

Dunlop, R.S.V.P. Coordinator,

Arkansas Department of Correction,

Appellees.

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Appeal from the United States
District Court for the Eastern
District of Arkansas.

[UNPUBLISHED]

Submitted: June 6, 2003

Filed: June 27, 2003

Before MORRIS SHEPPARD ARNOLD, HANSEN, and RILEY, Circuit Judges.

PER CURIAM.

James Munson appeals the district court's 28 U.S.C. § 1915A dismissal with prejudice of his 42 U.S.C. § 1983 action. We grant Mr. Munson in forma pauperis status on appeal, leaving to the district court the details of calculating the initial partial appellate filing fee and the collection of the balance. See Henderson v. Norris, 129 F.3d 481, 484-85 (8th Cir. 1997) (per curiam). Upon de novo review, see Cooper v. Schriro, 189 F.3d 781, 783 (8th Cir. 1999) (per curiam), we affirm the dismissal of the due process claim against the Post Prison Transfer Board members, see Patterson v. Von Riesen, 999 F.2d 1235, 1238-39 (8th Cir. 1993).

We remand the remainder of the action for further consideration. The district court should consider whether Mr. Munson stated a Fifth Amendment claim in light of the Supreme Court's decision in McKune v. Lile, 122 S. Ct. 2017, 2023, 2026-27 (2002); and whether he sufficiently alleged a First Amendment claim based upon required religious participation, and a Fourteenth Amendment equal protection claim based on his removal from the sex offenders' program because of his interracial marriage. Further, the court should determine if Mr. Munson has exhausted his administrative remedies on these issues. Accordingly, we remand the case to the district court for further proceedings.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.